

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/DK2004/000832

International filing date (day/month/year)
30.11.2004

Priority date (day/month/year)
05.12.2003

International Patent Classification (IPC) or both national classification and IPC
H04R25/00, H04R25/02

Applicant
OTICON A/S

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office - P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk - Pays Bas
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl
Fax: +31 70 340 - 3016

Authorized Officer

Fülöp, I

Telephone No. +31 70 340-1963



**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

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Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. V Reasoned statement under Rule 43b/s.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-8
	No: Claims	1
Inventive step (IS)	Yes: Claims	
	No: Claims	1-8
Industrial applicability (IA)	Yes: Claims	1-8
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

- I.** The following documents (D) are referred to this communication; the numbering will be adhered to in the rest of the procedure:

D1: US-A-3 359 377 (ROSENSTAND GERD) 19 December 1967 (1967-12-19)
D2: US-A-4 620 605 (GORE ET AL) 4 November 1986 (1986-11-04)
D3: WO 01/69974 A (KNOWLES ELECTRONICS, LLC) 20 September 2001 (2001-09-20)

- II.** The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 1** is not new in the sense of Article 33(2) PCT and, furthermore, the subject-matter of **claim 2** does not involve an inventive step in the sense of Article 33(3) PCT.

- 1.** Document D1, which appears to be the closest prior art document, discloses all the features of independent **claim 1** (see, especially, figure 5 and description col. 3, lines 1-10).

Claim 1 infringe thus Article 33(2) PCT.

- 2.** Document D1 discloses also all the features of dependent **claim 7** (see, especially, figure 5 and description col. 3, lines 1-10).

Claim 7 infringe thus also Article 33(2) PCT.

- 3.** The subject-matter of **claim 2** differs from the apparatus disclosed in document D1 (which is considered to be the closest prior art) in that the receiver is suspended from the detachable wall part "by means of a flexible tube leading from the receiver outlet to a sound delivering orifice in the detachable wall part and by at least one further flexible suspension which is fastened to the detachable wall part"

The problem to be solved by the present invention may therefore be regarded as how to provide a high degree of vibration / acoustical isolation for receivers used in hearing aids

The skilled person will start looking for a solution to this problem and would come across document D2 as it relates to the same technical field of mounting systems for electro-acoustical transducers. In particular, D2 discloses an apparatus having the same technical features as disclosed in **claim 2** (see, especially, figures 3-5). Moreover, the use of such an apparatus is described in D2 as providing the

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same advantages as in the present application (see abstract and description col. 4, line 41 - col. 5, line 3). The skilled person would therefore regard it as a normal design option to include this feature in the apparatus described in document D1 in order to solve the problem posed.

Thus, the subject-matter of **claim 2** does not involve an inventive step and does not satisfy the criterion set forth in Article 33(3) PCT.

- 4.** The features of remaining dependent **claims 3-6** are either disclosed by the prior art documents or constructional details well known to the skilled person:

Claims 3-5: the features of these claims are well known in the art of electroacoustics and applied by the skilled person whenever necessary in order to solve the problem posed. Indeed, document D3 discloses for instance an apparatus similar to the one claimed in claim 1. Moreover, document D3 discloses all essential features of **claims 3-5** (see, respectively, figure 4; page 4, lines 4-5 and page 4, lines 10-11);

In the above analysis, **claim 5** has been considered as being dependent on **claim 4** as the term "fibre" has been first introduced by the wording of this claim and not by the wording of claim 2 !!

Claim 6: the features of this claim are merely constructional details well known to the skilled person and applied, whenever necessary, in order to solve the problem posed.

Thus the introduction of the features of **dependent claims 3-6** either singly or in combination into their respective independent claim would not seem to lead to an independent claim which would satisfy Articles 33(2) and 33(3) PCT.

- 5.** Independent method **claim 8** defines substantially the same features as the combination of claims 1-3. Therefore, as set out in above sections 1, 3 and 4, claim 8 does not involve an inventive step in the sense of Article 33(3) PCT.

J.L.Fülöp